

Exhibit A
Response to Comments
327 IAC 15

Dekalb County Plan Commission:

1. Objects to proposed rules. Believes it would be less confusing and less time consuming if citizens only have to deal with one agency. The agency should be a local, easily accessible agency. Suggests the State consider a mandate that all local entities adopt an erosion control plan.

Response: We agree the number of contacts required of citizens should be held to a minimum. The DEM, the Soil and Water Conservation Districts and the DNR are developing a Memorandum of Understanding (MOU) that will delineate soil erosion control program responsibilities for each. The result of the MOU will be greater and more direct service to the local areas by placing certain program responsibilities with the county.

Bose McKinney and Evans:

2. There will be construction activities that will have started prior to the effective date of 327 IAC 15, Rule 5. The proposed Rule 5 language is not clear as to when the NOI letter, thus general permit coverage, is required for ongoing activities. Suggests adding a grandfather clause that addresses when an ongoing construction activity 15-5 NOI letter is required.

Response: See 327 IAC 15-3-3(b). Existing discharges shall submit a NOI letter within 90 days of the effective date of the applicable general permit.

Indiana Motor Truck Association, Inc.:

3. Suggests removing the word "fueling" from the definition of vehicle maintenance.

Response: The word "fueling" is included in the definition of vehicle maintenance in the federal regulations 40 CFR 122.26(b)(14)(viii). The federal regulation overrides State regulations if they do not meet minimum federal requirements and would continue to apply. To assure a clear understanding that this Article properly reflects Federal rules, the word "fueling" should remain.

Hendricks County Engineer:

4. Same comments as Dekalb County Plan Commission.

Response: See response to comment 1.

Marion and Allen Counties, SWCD:

5. Both support 327 IAC 15-5.

AIMCOR:

or
10/1/92
whichever
comes first

6. May a NOI signed by a duly authorized representative?

Response: In order to clarify this point, a new (8) has been added to 327 IAC 15-3-2 at (8) that says, "The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g)."

7. Are there specific quals for a "qualified professional"?

Response: It is expected that an individual identified as "qualified" would hold the proper educational and professional certifications.

8. 327 IAC 15-6-7(b)(1)(B)(iii) should refer to (b)(1)(B)(i).

Response: The Indiana Register found this mistake prior to the April 1, 1992, publication and made the correction.

Monticello White County Industrial Foundation:

9. 327 IAC 15-5-5(4)(D): What are the criteria for identifying "personnel trained in erosion control practices"?

Response: At the present time, there are no criteria available. The DEM and DNR plan to develop such criteria.

10. 327 IAC 15-5-7(b)(1): Suggests reevaluating requiring sediment basins to control soil migration.

Response: The federal draft general permit on construction activities requires sites that disturb 10 acres or more to install sediment basins, if possible. We believe that our current language is too restrictive and should allow some flexibility. Therefore, we have revised these provisions to require erosion control practices that meet the needs of the situation.

11. 327 IAC 15-5-7(b)(6)(B)(i): Clarify "disturbed areas left inactive for seven or more days".

Response: This provision is not clear. The original language has been revised to state that appropriate vegetative practices will be initiated within 7 days of the last activity at that area.

12. 327 IAC 15-5-7(b)(6): What are the criteria for identifying a "qualified professional experienced in erosion control"?

Response: See the response to comment 9.

13. 327 IAC 15-5-7(d)(1)(E): What is meant by "Location and delineation of vegetative cover such as grass, weeds, brush, and trees"?

Response: The site map should identify the areas that have vegetative cover as opposed to paved areas or buildings. It does not mean the site map must individually identify each tree or bush.

14. 327 IAC 15-6-2(1) Define point source discharge.

Response: The term "point source" is found at 327 IAC 5-1-2(32). "Point Source" means any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

15. 327 IAC 15-6-4(1): Clarify precipitation event. Current language suggests 0.1 inch of any kind of precipitation.

Response: Federal language defines storm water as storm water runoff, snow melt runoff, and surface runoff and drainage. We agree that our definition of storm event is unclear. It has been revised to mean a total measured precipitation accumulation equal to, or greater than, one-tenth inch of rainfall.

16. 327 IAC 15-6-4(2): Suggest that more study be given to the definition of industrial activity.

Response: The definition uses, as it must, the federal definition. Attempts at clarification endanger the rule as it could change legal interpretations. *Does it?*

17. 327 IAC 15-6-7(b)(1)(A)(v): Define "unauthorized management practices".

Response: These are land use practices that are not allowed by law.

18. 327 IAC 15-6-7(b)(1)(B)(iii): Question the need for the topographic map to extend 1/4 mile beyond property boundaries.

Response: This is required by federal regulation and must therefore be applied to the State.

19. 327 IAC 15-6-7(b)(1)(B)(iv)(AA): Question why a facility would self-incriminate themselves by identifying on-site treatment, storage, or disposal of "significant materials".

Response: This is intended only to provide necessary information.

Indiana Builders Association:

20. Suggest adding a grandfather clause to 15-5-2(a).

Response: See response to comment 2.

21. Suggest adding to 15-5-7(b)(6)(B)(i) "...weather or other circumstances beyond the control of the operator".

Response: In addition to the revision described in the response to comment 11, this provision has been revised to include the suggested language.

Browning-Ferris Industries:

22. 327 IAC 15-3-3: Recommends that the Department either provide that the discharge is authorized upon receipt of a completed NOI or require that, for non-construction related discharges, a NOI letter be submitted 60 days prior to commencement of discharge.

Response: AT 327 IAC 15-3-4, it is stated that a person is covered by the general permit upon submission of the NOI letter. The time requirements in 15-3-3 are consistent with current NPDES permit rule requirements.

23. 327 IAC 15-5-7(b)(4): Suggests deleting the first sentence.

Response: This provision to keep public or private roadways cleared of accumulated sediment is important. We believe that the operator should minimize tracking sediment onto roadways and, when not possible, clean the roadway.

24. 327 IAC 15-5-7:: Suggests clarification of leaving a disturbed area inactive for 7 or more days. What does inactive mean?

Response: See response to comment 11.

25. 327 IAC 15-5-7(b)(6)(B)(ii)(AA): Suggests the requirements for the use of sediment basins be softened.

Response: See response to comment 10.

26. 327 IAC 15-6-4(2): Properly closed landfills should not be required to obtain coverage by a storm water permit.

Response: "Properly closed landfills" are not required by this regulation to obtain such a permit.

27. 327 IAC 15-6-4(2): Open dumps are illegal and should automatically be considered in violation of storm water rules. No permit should be required.

Response: We agree and this language allows for that. This language is identical to the federal language.

28. 327 IAC 15-6-7(d): Urges DEM to adopt monitoring/inspection requirements consistent with the EPA rules, April 2, 1992, FR.

Response: Revisions have been made to this provision that are more consistent with EPA requirements.

Indiana Chamber of Commerce:
Indiana Manufacturing Association:

29. Supports Article 15.

Hoosier Energy:

30. 327 IAC 15-6-7(d): Recommends defining visual sampling and at what point during a storm event should the sampling take place. Also, there should be less frequent visual sampling required; not every precipitation event should be sampled.

Response: Visual "sampling" should be called visual "inspection" and the inspection should take place within the first 30 minutes to an hour of the start of the rain event. We agree that sampling should be less frequent. This provision has been modified to incorporate these comments.

Indiana Constructors Inc.:

31. 327 IAC 15-5-7(b)(1): The requirement for sediment basins is not practical for highway or utility construction. Suggest not making the sediment basin an absolute requirement but add some flexibility to allow other effective alternatives.

Response: See response to comment 10.

32. 327 IAC 15-5-6: Suggests that this provision clearly state the rule is applicable only to construction projects initiated after the effective date. Prior to the effective date of these rules, contractors may not have included the cost factors resulting from these rules in their bids.

Response: See response to comment 2.

33. 327 IAC 15-5: Are mobile asphalt and concrete plants affected?

Response: These plants are not covered by rule 5, construction activity. They would be covered by rule 6 if there was a point source discharge of storm water associated with industrial activity.

34. Many members do much of their construction work for public agencies. Recommend DEM approve the erosion control specifications or standards of the contracting public agency which would govern any work contracted out which exceeded 5 acres.

Response: This is a valid request and will be considered at a later date. Please see the response to comment 127.

35. 327 IAC 15-5-7(b)(6)(B)(i): The requirement to stabilize disturbed areas left inactive for 7 or more days poses a problem for highway construction.

Response: See response to comment 11.

Izaak Walton League of America:

36. 327 IAC 15-2-6: Recommends adding to the exclusions list discharges to lakes, sink holes, and salmonid waters, and to waters listed under Sec. 304(1).

Response: I do not believe that existing facilities that discharge into these waters from obtaining a general permit is necessary. Further discussion on this subject can be found in the response to comment 79.

37. 327 IAC 15-2-9(b): Recommends adding language that identifies dischargers of toxic substances which persist and bioconcentrate be required to obtain an individual NPDES permit.

Response: Language has been added to (1) that says, "... , such as bioaccumulative chemicals of concern."

38. 327 IAC 15-1: Recommends adding a public participation provision that provides public notification on acceptance of NOI letters and allow a 30-day comment period.

Response: This issue was discussed during the February 12 , 1992 Water Board meeting. The Board recommended that public participation be conducted by policy and specifically mentioned DEM cause a list of facilities requesting coverage by a general permit be published periodically in the Indiana Register.

Save the Dunes Council:

39. 327 IAC 5 is being revised at the present time but does not refer to 327 IAC 15.

Response: Language will be added to Article 5 that refers to Article 15.

40. There is no reference to Indiana's water quality standards being applicable to storm water discharges.

Response: In 327 IAC 15-2-10 Prohibitions, it states that no general permit shall be promulgated and issued where the terms and conditions of the permit do not comply with the applicable guidelines and requirements of the CWA or effective regulations promulgated under the CWA, 327 IAC 2, 327 IAC 5, or this article.

41. 327 IAC 15-4-1 does reference Clean Water Act sections but not Indiana Codes.

Response: This provision does mention the Environmental Management Act, which is Indiana's CWA.

42. 327 IAC 15-4-1(d): Enforcement language is too weak.

Response: The enforcement language in this Article is identical to the language in 327 IAC, Article 5.

43. 327 IAC 15-4-1(f): "Reasonable time" needs defined.

Response: This phrase is left undefined intentionally. There is a need for the agency to have the flexibility to evaluate "reasonable time" on a case-by-case basis.

44. 327 IAC 15-4-2(c): Bypass language should contain the same exception language as in (d) on upsets.

Response: The language in this provision is identical to the bypass language at 327 IAC 5-2-8(k).

45. 327 IAC 15-4-2(f): The reference to 327 IAC 15-4-1(d) is inadequate since "all reasonable steps" to correct adverse impact from noncompliance are not specific "remedial measures".

Response: The "reasonable steps" is not designed to clarify specific remedial measures. It is to state the intent, as does 327 IAC 15-4-1(d), to correct or minimize adverse impacts.

46. Is there a clear statutory basis for the NOI letter?

Response: The NOI letter, or its equivalent, the permit application, is not based on statutes, Indiana Codes. These are addressed and required by regulations, such as, 327 IAC 5 and this proposed regulation 327 IAC 15.

47. How will public notice and public hearing requirements be applied to the proposed issuance of permits under this proposed new rule?

Response: See response to comment 38.

48. Will fact sheets and maps be part of NOI letters and made available to the public with public notices?

Response: Fact sheets and maps are not required with the submittal of the NOI letter. The NOI letter is part of the public record and will be available for review.

49. 327 IAC 15-5: Recommends coordination between DEM and local planning and building commissions on construction activity be established.

Response: See response to comment 1.

50. 327 IAC 15-5-7(d)(1)(B) should include identification of wetlands, (H) should include the change in contours, and (I) should also add groundwater discharge areas.

Response: Identification of wetlands will be added. In (H), it does require both existing and planned contours. In (I), the term "recharge" has been changed to "discharge" to clarify the intent of this provision.

51. 327 IAC 15-5: We see no public notice requirements of procedures identified in this proposed rule.

Response: See response to comment 38.

52. 327 IAC 15-6: We find the differences and distinctions between the language relating to industrial activity under 327 IAC 15 and the language in 327 IAC 15-6 difficult to determine.

Response: .e comment is unclear.

53. 327 IAC 15-6: While this rule appears to rely on management plans under 327 IAC 15-6-7, we find no time limits for the plans required; no enforcement or compliance methods; no explanation as to how these plans relate to or are distinct from NPDES permits for the particular industry; and no public notice requirements for plan amendments.

Response: In 327 IAC 15-6-7(c)(3), the plan is required to be developed and implemented within 365 days after submission of the NOI letter. In 327 IAC 15-6-9, violation of this rule is grounds for enforcement action. There are no public notice requirements for the plans.

54. 327 IAC 15-6-7(b)(1)(B)(i): Wetlands should be identified on the site map.

Response: Wetlands will be added to this provision.

Jones and Henry Engineers, Inc.:

55. 327 IAC 15-6-7(d)(3): Concerned with the required frequency for visual sampling.

Response: See the response to comment 30.

Marathon Pipe Line Company:

56. 327 IAC 15-5-6: Recommends exempting construction activity from coverage if construction begins prior to October 1, 1992.

Response: See response to comment 2.

USDA SCS in Crown Point, Indiana:

57. 15-5-5(4): There should be a State form developed for points (A) and (D).

Response: We agree and plan to provide a NOI form for each general permit.

58. 15-5-5(4): There should be a method specified for the local SWCD to review and respond that the "plan" is or is not adequate to control erosion.

Response: See the response to comment 1.

59. 15-5-5(4): There should be a DNR training program that the person must have attended and receive certification. This should be documented on the plan.

Response: This comment will be provided to DNR.

60. 15-5-7(d)(1)(F): This should specify that the total watershed(s) must be shown.

Response: This would be an impractical requirement. The watershed could be of such size as to require a large, many page map to show it. The required information is sufficient.

61. There should be a requirement for site inspections before, during, and after construction by the local SWCD with approval at each phase and a method to enforce compliance.

Response: See the response to comment 1. Under the MOU, this could be a responsibility of the local Soil and Water Conservation District.

62. There should be a method for the SWCD to charge a fee for their services.

Response: That is beyond the authority of DEM.

63. 15-6-7: There should be a reference to the practice standards and specifications to be followed i.e. DNR, SCS, HERPIC manual.

Response: It is not clear how soil erosion control practices would relate to this rule. This rule deals with pollution prevention activities after land disturbing activities are completed and the facility is in operation.

64. 15-6-7(b)(1)(B)(iii) should specify the required scale of the map, the contour interval and the total watershed shown.

Response: There has been discussion during the development of this regulation concerning map scale. It was decided to not require the topographic map to be a certain scale because of the difficulty some operators may have in obtaining the correctly sized map. Topographic maps usually display the contour interval. It is not necessary to require it be displayed. The watershed comment is discussed in comment 60.

65. 15-6-7(b)(1)(B)(iii)(v) should define significant spills.

Response: These would be occurrences of leaks or spills of chemicals regulated by any program that are required to be reported. The leaks or spills should have occurred in areas that are exposed to storm water runoff.

66. 15-6-7(c)(1) this should specify a person trained by DEM through a certification course.

Response: See response to comment 59.

Environmental Compliance Source, Ltd.:

67. 15-6-7(d)(3): Suggests that the monitoring frequency for visual sampling could be conducted less frequently.

Response: See response to comment 30.

68. 15-6-7(d)(3): Clarify if the visual sampling is to begin during the first year after the plan is implemented or in the subsequent year.

Response: The proposed language intended to require visual sampling during the second year of coverage by the permit. There have been some minor revisions to this provision.

Old Ben Coal Company, Zeigler:

69. 15-5-4: Recommend adding coal mine activities permitted by the DNR under IC 13-4.1 to the definition of "Land disturbing activity" as excluded by this rule due to these activities currently are covered by NPDES permits.

Response: This request has been granted.

70. 15-5-7(b)(6)(B)(i): Define "inactive". Does this relate to coal mining operations?

Response: See response to comment 11. Our interpretation is that this does not relate to coal mining operations.

71. 15-6-7(d)(3): Suggests that visual sampling be limited to those parameters that could be reasonably assessed visually, such as oil sheens, foam, turbidity, color and odor.

Response: We agree with this comment and have made appropriate revisions to the language.

72. Should all outfalls need to be monitored?

Response: Not all outfalls will need to be monitored. Under 327 IAC 15-6-5, NOI letter requirements, (3) allows a person to establish a representative outfall to act as the monitoring point for similar point source discharges of storm water.

73. 15-6-7(d)(4): Recommends a simple scheme such as require 3 grab samples at least an hour apart, during a 24 hour period that corresponds to a storm event for which the total precipitation exceeds 50% of a 1 year event.

Response: The referenced sampling requirements are consistent with the sampling requirements in the federal language.

74. 15-6-7(d)(7): Coal mines design 10 hour detention basins. Recommends that the detention capacity necessary for a pond to be exempt from composite sampling would be 10 hrs rather than the 24 hrs proposed.

Response: The language was revised to include 10-hour coal mine detention basins. The 10-hour detention basin design is standard for the coal mining industry.

John Feeney:

75. 15-2-2(a): Point sources should be defined.

Response: The term "point source" is defined in 327 IAC 5-1-2. See response to comment 14.

76. A permit fee structure should be identified.

Response: Permit fees are established in 327 IAC 5-2-21.

EPA, Region 5:

77. 15-1-4: Suggests DEM explore the possibility of enabling local governments to assist the State in compliance monitoring and enforcement activities.

Response: This agency does intend to bring local and county authorities closer to the regulatory aspects of the soil erosion control program required by federal laws. See response to comment 1.

78. 15-2-3: In (c), suggests modifying to, "A facility that holds an individual NPDES permit may seek to cover eligible discharges under an applicable general permit if such discharges are not addressed in the individual permit."

Response: The suggested language is clearer. The proposed language has been modified.

79. 15-2-6: Suggests the exclusion of discharges to waters identified (on CWA Sec. 304(l) lists and in Nonpoint Source Assessment Reports) as impaired by storm water runoff.

Response: We do not believe adding these to the exclusions is necessary. The general permit rules deal only with point source dischargers. As stated in 327 IAC 15-2-9(b), we will not allow a point source discharger who violates the terms and conditions of a general permit to be covered by a general permit. Restricting point source dischargers who are known to not be impairing the stream from coverage by a general permit solely because their receiving stream is impacted by nonpoint source discharges is not appropriate.

80. 15-2-9: (b) should be revised to include the additional cases, described under 122.28(b)(2)(i)(E) and (F), where an individual permit may be required.

Response: The provisions in (E) have been added. The provisions in (F) have not because this agency does not operate a general permit program for sludge use or disposal.

81. 15-2-9(d): Suggest revising to "An operator of a storm water discharge that (1) meets the applicability requirements of the general permit and (2) is not covered under an existing individual NPDES permit, must submit an application in accordance with 327 IAC 5-2-3 if the operator seeks to cover the discharge under an individual permit."

Response: This provision has been revised as suggested. The revised language is more clear.

82. 15-4-1: In (i), suggest to allow modification of the general permit following establishment of any standard, including that related to sediments, wet weather flows, or the biological integrity of the receiving water.

Response: The language in (i) has been revised.

83. 15-5-2: This rule should more clearly identify who is responsible for submitting the NOI when an operator has not been identified.

Response: See the definition of "operator" at 327 IAC 15-5-4(7). The "operator" is the person submitting the NOI letter.

84. 15-5-4: Suggest revising the definition of "operator" to more clearly describe the conditions that qualify an individual or organization as an "operator".

Response: See response to comment 83.

85. 15-5-4: The definition of land disturbing activity should describe the conditions that indicate the cessation of disturbing activity, such as when the site is finally stabilized and all construction-related storm water discharges have been eliminated.

Response: See 327 IAC 5-5-11 Permit duration.

86. 15-5-5: The NOI should also identify the name, address, and telephone number of the site owner, as well as the individual who will be responsible for day-to-day operation of the site.

Response: This need is met at 327 IAC 15-3-2 and 5-5.

87. 15-5-5: In (4)(C), add, "and that the plan complies with applicable State, county, or local erosion control requirements."

Response: We revised (4)(A) to include this language.

88. 15-5-6: Suggest adding, "or, for land disturbing activities that are ongoing as of October 1 1992, by October 1, 1992."

Response: See the response to comment 2. Since the federal regulations are silent on this issue, we believe our proposed language is adequate.

89. 15-5-7: Should clarify that the erosion control plan must be developed prior to the commencement of construction.

Response: The language in 327 IAC 15-5-5 and 6 provides that clarification.

90. 15-5-7: Suggest moving (a) to follow (c).

Response: We do not believe it is necessary to reorganize this section.

91. 15-5-7: In (b)(1), define "sediment-laden", qualitatively or quantitatively.

Response: The intent of this provision is to minimize sediment buildup in waters of the State caused by storm water runoff from construction sites by installing appropriate soil erosion control measures. It is not possible at this time to establish a value (concentration or mass) that would define "sediment-laden".

92. 15-5-7: In (b)(2), clarify "proper disposal or management..."

Response: This means disposal must be done in accordance with the applicable laws and regulations for the waste in question.

93. 15-5-7: In (b)(6)(A), should include specs for measures intended to protect natural conveyances and wetlands that pass through or are adjacent to the construction site.

Response: This idea is inherent in the current language.

94. 15-5-7: In (b)(6)(B)(ii)(BB), suggest including "slope minimization, phased construction, and maximizing tree coverage".

Response: These have been added to the list.

95. 15-5-7: In (c), should require the operator to (1) inspect the erosion control measures shortly after a rainfall event, (2) prepare and retain a written summary of the results of the inspection, and (3) implement any follow-up actions deemed necessary to ensure the continued control of erosion.

Response: These are implied in the current language.

96. 15-5-7: In (c), revise to "If, after construction is complete, storm water discharges from the site that have the potential to violate a water quality standard or contribute significant amounts of pollutants to waters of the State, some or all..."

Response: See response to 97.

97. 15-5-7: Questions the authority of the State to require maintenance of sediment basins and other erosion control measures after construction is complete.

Response: It was decided to delete the language in (c) after the first sentence. This statement is not needed in rule 5. The agency does have the legal authority in 327 IAC 5 to regulate a point source discharge that has the potential to cause a water quality violation.

98. 15-5-7: In (d)(1)(B), should list wetlands.

Response: Added.

99. 15-5-7: In (d)(2), should require the operator to estimate the pre- and post-construction runoff coefficient.

Response: We do not recommend incorporation of this requirement as it would not provide additional information relevant to the decision.

100. 15-5-7: In (d)(3)(E), Add, "Provisions, including a schedule, for maintenance of the...". Also, should include a recommended schedule for maintenance of any structural and nonstructural measures that remain in place after construction is complete.

Response: This provision has been revised.

101. 15-5-7: Add a (d)(3)(F) which would require, where feasible, preservation of the vegetation that exists on the site prior to the initiation of land disturbing activities.

Response: Added.

102. 15-6-2: Should exclude facilities in the 10 industrial categories that have effluent limitation guidelines for storm water.

Response: This exclusion has been added to 327 IAC 15-6-2.

103. 15-6-2: In (3), should clearly indicate that only discharges composed entirely of storm water are covered under the general permit.

Response: Added.

104. 15-6-2: Should clarify that this permit does not authorize storm water discharges from construction sites and should also refer readers to Article 15, Rule 5.

Response: Added to 15-6-1.

105. 15-6-4: Recommend EPA's definition of "storm water discharge associated with industrial activity" be included verbatim.

Response: We believe that the definition as written is adequate.

106. 15-6-5: In (3), should require an explanation of why the operator feels the outfalls are substantially similar and describe criteria the DEM might use to evaluate an operator's findings.

Response: We have added some clarifying language to this provision that requires an explanation of the rationale the operator used to identify why certain point sources are similar.

107. 15-6-6: This provision may be unnecessary and, at least, needs clarified.

Response: This reference is required to assure appropriate legal references.

108. 15-6-7: In (b)(1)(A)(ii), should be revised to read: "...intermediary products, final products, or waste products."

Response: Added.

109. 15-6-7: Add a (b)(1)(A)(vii), which would require a description of areas where pesticides are applied.

Response: Added.

110. 15-6-7: In (b)(1)(B)(i), require information on soils (including those that may be contaminated), groundwater, surface slopes, existing and proposed underground storage tanks, and snow dumping sites.

Response: We have added all of the above to the site map information requirements except for groundwater. It is not clear how groundwater could be identified on a site map.

111. 15-6-7: In (b)(1)(B)(i)(AA), replace the word "structure" with "conveyance" to include non-structural flow conduits.

Response: This has been done.

112. 15-6-7: In (b)(1)(B)(i)(FF), hazardous waste treatment facilities should be identified on the map.

Response: Added.

113. 15-6-7: In (b)(1)(B)(iv)(AA), define "significant materials".

Response: Significant materials are materials regulated by any program. See response to comment 65.

114. 15-6-7: In (b)(1)(B)(v), Define "significant spills and leaks" and "toxic or hazardous pollutants".

Response: See response to comment 65.

115. 15-6-7: In (b)(2)(B), revise to read "...maintenance of material handling and storage equipment and storm water.."

Response: There is no clear reason to include this statement.

116. 15-6-7: In (b)(2)(C), revise to read, "...accompanying drainage points, and minimize the potential for spills to occur."

Response: This provision has been revised.

117. 15-6-7: In (b)(2), add "(F) certify that storm water discharges from the site have been evaluated for the presence of non-storm water, and (G) implementation of erosion controls on the site."

Response: (F) has been added. (G) is addressed in rule 5.

118. 15-6-7: In (c), (d)(1 and 3), please note that plan implementation is an ongoing process, not one which ends when certain milestones are reached.

Response: Although plan implementation is an ongoing process, it is important to require a plan be developed and then implemented by a certain date. The language in (c)(5) certainly indicates this agency understands implementation is ongoing and expects the plan to be revised periodically. Therefore no revisions will be made in the current language.

119. 15-6-7: In (c)(5), add "whenever there is a change in the amount or nature of materials exposed to storm water."

Response: There is no clear reason to include this statement.

120. 15-6-7: In (d)(2), should indicate that grab samples are required for analysis of volatile organic compounds.

Response: Added.

121. 15-6-7: In (d)(3), to evaluate the effectiveness of the plan, suggest that the permit require sampling prior to plan implementation and during the operation and maintenance stage of plan implementation. Also, visual sampling (inspection) may focus on the possible present to turbidity, color, foam, solids, floatables, and an oil sheen.

Response: We have revised this provision.

122. 15-6-7: In (d)(6), add "...or a municipal separate storm sewer."

Response: Added.

123. 15-6-7: In (e), should require facility operators to follow accepted practices for quality assurance and quality control and that the term "weight" should be replaced with "mass".

Response: This provision has been revised.

Indiana Department of Transportation:

124. 15-5-7(b)(1): Requiring sediment basins at all construction sites is not practical for highway construction. Current requirements in INDOT's Standard Specifications under Section 108.03 states that various methods, including berms, dikes, dams, ditching, and sediment basins, shall be constructed and maintained by the contractor until the contracted-for permanent erosion control features are placed.

Response: See response to comment 10.

125. Requests clarification of the term "Qualified professional experience in erosion control".

Response: See response to comment 8.

126. 15-5-7: In (b)(6)(B)(i), clarify "inactive".

Response: See response to comment 11.

127. 15-5-7: In (d)(1)(I), all land can be considered as a potential ground water recharge area. Please clarify. Also, INDOT requests that road construction be exempted from this requirement altogether.

Response: The intent of this language was to identify potential areas where point sources of storm water may be discharged into a ground water aquifer. The language has been modified for clarification. Since the language has been clarified, INDOT's request to be exempted should not be necessary.

127. INDOT, during its contract development with potential contractors, develops much of the information required by rule 5. INDOT suggests that a provision be added to this rule stating that the various INDOT generated documents and standards be accepted as the documentation required by 15-5-7(d).

Response: The current requirements in (d) are broad. If the documents and standards generated by INDOT and its contractors met the requirements in (d), they would certainly be acceptable.

The Advent Group, Inc.:

128. 15-6-5(3): Please define "similar point source discharges".

Response: These are point sources that would be draining storm water from the same area of the plant property and you would expect the storm water leaving each point source to have essentially the same characteristics.

129. 15-3-3: Can NOI letter be modified after the initial submission?

Response: Yes. A NOI letter can be modified at any time.

130. Please clarify the RCRA units required on the SPPP site map. For example, are solid waste management unit locations required?

Response: In 15-6-7(b)(1)(B)(i)(FF), the site map must indicate each hazardous waste storage or disposal facility, including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34. This means that the site map must identify all RCRA and non-RCRA storage or disposal facilities.

131. Will the quarterly SPPP progress reports require certification? If so, by whom?

Response: See 327 IAC 15-4-3(g).

132. Please clarify whether the SPPP compliance activities must be completed within 365 days of the notice of intent submittal.

Response: In 15-6-7(c)(3), compliance with the plan is required on or before 365 days after submission of the NOI letter, or, in the case of new facilities, prior to initiation of operation at the facility.

133. Please clarify when the facility is authorized to discharge stormwater from the outfalls. 327 IAC 15-3-4(1) states that "a person with an existing NPDES permit shall be covered by the requested general permit upon submittal of the NOI letter...", while 327 IAC 15-6-7(d)(1) states that "After the implementation of the pollution prevention plan is complete and lasting until the permit expires, the facility is authorized to discharge from all Outfall(s) covered by this permit".

Response: There is an apparent conflict in the language. We have revised 15-6-7(d)(1) to delete the first sentence from this provision. Permit duration is addressed in 15-2-8(b). Commencement of coverage is addressed in 15-3-4. There is no need to set coverage commencement in rule 6.

134. 15-6-7(b)(2)(A)(iii): Please define "significant leaks or spills".

Response: These would be occurrences of leaks or spills of chemicals regulated by any program that are required to be reported. The leaks or spills should have occurred in areas that are exposed to storm water runoff.

135. Please define the following terms:

- a. Pollutant - 15-6-7(b)(2)(A);
- b. Significant materials - 15-6-7(b)(1)(B)(iv)(AA);
- c. Toxic or hazardous pollutants - 15-6-7(b)(1)(B)(v).

Response: a. Pollutant is defined in 327 IAC 5.

b. Significant materials are materials regulated by any program.

c. Toxic or hazardous pollutants are those that are defined as such by the air, solid and hazardous waste, and water programs.

Hearing Officer Recommendation

I, Lonnie Brumfield, have fully considered all comments presented to me during the hearings and comment period concerning the addition of Article 15 to 327 IAC. Staff of the Office of Water Management and myself have revised the rule that was preliminarily adopted on February 12, 1992. These revisions are described in detail in the text of the response to comments. It is my opinion that the revisions should not be considered substantially different than that which was preliminarily adopted.

Respectfully submitted:

Lonnie Brumfield

Lonnie Brumfield,
Hearing Officer
Water Pollution Control Board

Dated: 6/3/92

